

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CORTICAS LAMOSEL, LDA,

Plaintiff,

v.

DIAGEO CHATEAU & ESTATE WINES,

Defendant.

No. C-05-04155 SI (EDL)

**ORDER VACATING SHOW CAUSE
HEARING AND SETTING FURTHER
SETTLEMENT CONFERENCE FOR
SEPTEMBER 27, 2006**

On May 26, 2006, the Court issued an Order Following Settlement Conference setting a further settlement conference for August 16, 2006 and requiring Plaintiff's client representative "Fernando Olivera to appear in person unless excused by the Court, which is very unlikely." May 26, 2006 Order at 1:19-20. When it became clear that Mr. Olivera was not going to travel from Portugal to appear at the settlement conference, the Court issued an Order to Show Cause on August 14, 2006 requiring Plaintiff to show cause why it should not be sanctioned for violating the Court's Order requiring Mr. Olivera's attendance.

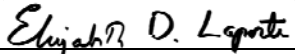
On August 23, 2006, Plaintiff filed Mr. Olivera's declaration explaining that he failed to appear without prior excuse at the settlement conference because of recent terrorism issues arising in England on August 10, 2006, which made travel from Europe more difficult and dangerous, and because most of his employees were on vacation in August. The Court is not persuaded that Mr. Olivera has made a sufficient showing to excuse his failure to attend. First, it appears that Mr. Olivera's decision not to attend the settlement conference may have preceded the terrorism issues in England, which took place only six days before the scheduled settlement conference. The Court

1 assumes that Mr. Olivera would have bought a ticket to travel from Portugal well before the
2 terrorism issues in England arose, but he has provided no evidence that he had done so. Second, the
3 fact that most of plaintiff's employees were on vacation during the month of August was almost
4 certainly known to Mr. Olivera well in advance of the settlement conference, yet there was no effort
5 made to contact the Court to reschedule until days before the conference. Even so, the Court
6 exercises its discretion not to impose sanctions at this time. Accordingly, the show cause hearing set
7 for August 29, 2006 is vacated.

8 A further settlement conference is scheduled for September 27, 2006 at 9:00 a.m. Mr.
9 Olivera shall attend the September 27, 2006 settlement conference in person. The parties shall file
10 updated confidential settlement conference statements no later than September 18, 2006. All other
11 provisions of the April 10, 2006 Notice of Settlement Conference and Settlement Conference Order
12 and May 26, 2006 Order Following Settlement Conference remain in effect.

13 **IT IS SO ORDERED.**

14 Dated: August 28, 2006



ELIZABETH D. LAPORTE
United States Magistrate Judge